

DALE C. DeLOR

IBLA 78-326

Decided March 22, 1979

Appeal from decision of the California State Office, Bureau of Land Management, rejecting untimely filed notice of mining claim recordation. CA MC 1790.

Affirmed.

1. Federal Land Policy and Management Act of 1976: Generally—Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment—Mining Claims: Recordation

Under sec. 314(b) of the Federal Land Policy and Management Act of Oct. 21, 1976, 43 U.S.C. § 1744(b) (Supp. 1977) and 43 CFR 3822.1-2, the owner of a mining claim located after Oct. 21, 1976, must file a notice of recordation of the claim with the proper Bureau of Land Management office within 90 days of location of the claim, or the claim is deemed abandoned and void.

2. Notice: Generally—Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of duly promulgated statutes and regulations.

APPEARANCES: Dale C. DeLor, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

This is an appeal from a decision dated February 23, 1978, of the California State Office, Bureau of Land Management (BLM), refusing to

accept for filing a mining claim location notice because of noncompliance with 43 U.S.C.A. § 1744 (Supp. 1978) and 43 CFR 3833.1-2(b). The regulation provides as follows:

The owner of an unpatented mining claim, mill site, or tunnel site located after October 21, 1976, on Federal land shall file (file shall mean being received and date stamped by the proper BLM office), within 90 days after the date of location of that claim in the proper BLM office a copy of the official record of the notice or certificate of location of the claim or site filed under state law or, if the state law does not require the recordation of a notice or certificate of location of the claim or site, a certificate of location containing the information in paragraph (c) of this section.

As stated on the amended location notice, appellant's claim was located on October 23, 1976. ^{1/} The notice of location was not filed with BLM until April 6, 1977, more than 90 days later.

In his appeal, appellant states that he did not receive notification of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744, until March 24, 1977, that on April 3, 1977, he sent an amended copy of his location notice to the County Recorder's Office. On April 6, 1977, BLM received a copy of the amended location notice. Appellant asserts that he was within the 90-day time limit for recording of a newly located claim discovered after October 21, 1976, in view of the foregoing factors.

[1] The Board has several times held that a mining claim located after October 21, 1976, for which a notice of recordation has not been filed within 90 days from the date of location, is void, and no force and effect can be given to a notice of recordation filed after the 90-day period. Northwest Citizens For Wilderness Mining Co., Inc., 33 IBLA 317 (1978); Southwest Exploration Associates, 33 IBLA 240 (1977). Neither the statute nor regulations contain any provisions allowing for a waiver of the 90-day requirement or the granting of extensions. On the contrary, the consequences of failing to timely file notices of location are stated in 43 CFR 3833.4(a): "The failure to file such instruments as are required by secs. 3833.1 and 3833.2 within the time periods prescribed therein, shall be deemed conclusively to constitute an abandonment of the mining claims, mill site, or tunnel site and it shall be void." The Board is without authority to grant the relief requested. See Belton E. Hall, 33 IBLA 349 (1978).

^{1/} Appellant's filing of an "amended" location notice did not change the date of his location.

[2] In response to appellant's statement that he was unaware of the filing requirements, the courts have ruled that all persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. 44 U.S.C. § 1507, 1510 (1970); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947). The regulations herein cited were promulgated in the Federal Register at 42 FR 5300 et seq. (January 27, 1977).

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Joseph W. Goss
Administrative Judge

We concur.

Douglas E. Henriques
Administrative Judge

Edward W. Stuebing
Administrative Judge

